

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

KEVIN C. NEAL

v.

UNITED STATES OF AMERICA

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No. 3:11-01176
JUDGE CAMPBELL

ORDER

Pending before the Court is Movant's Motion For Challenging The Court Memorandum Order (Docket No. 25). Through the Motion, the Petitioner appears to seek reconsideration of the Court's Memorandum and Order (Docket Nos. 20, 21) of May 8, 2012, dismissing his Section 2255 Motion To Vacate as being barred by the applicable statute of limitations.

Petitioner argues that the statute of limitations should be equitably tolled based on trial counsel's failure to object to a notice of prior conviction filed by the Government in the underlying criminal case pursuant to 21 U.S.C. § 851. Petitioner does not explain, however, how this alleged deficiency by counsel was an "extraordinary circumstance" preventing him from timely filing his Section 2255 action. See Holland v. Florida, ___ U.S. ___, 130 S.Ct. 2549, 2562, 177 L.Ed.2d 130 (2010)(In order to demonstrate that he is entitled to equitable tolling, a petitioner must show: (1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way and prevented timely filing.) Nor has Petitioner demonstrated that he diligently pursued his rights prior to filing this action. Accordingly, the Petitioner's Motion For Challenging The Court Memorandum Order (Docket No. 25) is DENIED.

It is so ORDERED.


TODD J. CAMPBELL
UNITED STATES DISTRICT JUDGE